

valid for the same calendar year as the vessel certificate of inclusion, and the exemption must be renewed annually to remain valid. The vessel certificate of inclusion holder is responsible for reporting to the Director, Southwest Region any changes aboard the vessel within 15 days of the change which might affect the continued eligibility for an exemption. The Director, Southwest Region will revoke an exemption if the criteria for an exemption are no longer met.

(g) *Penalties and rewards:* Any person or vessel subject to the jurisdiction of the United States shall be subject to the penalties provided for under the MMPA for the conduct of fishing operations in violation of these regulations. The Secretary shall recommend to the Secretary of the Treasury that an amount equal to one-half of the fine incurred but not to exceed \$2,500 be paid to any person who furnishes information which leads to a conviction for a violation of these regulations. Any officer, employee, or designated agent of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

[45 FR 72187, Oct. 31, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 216.24, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 216.25 Exempted marine mammals and marine mammal products.

(a) The provisions of the MMPA and these regulations shall not apply:

(1) To any marine mammal taken before December 21, 1972¹, or

(2) To any marine mammal product if the marine mammal portion of such product consists solely of a marine mammal taken before such date.

(b) The prohibitions contained in § 216.12(c) (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United

States before the date on which a notice is published in the FEDERAL REGISTER with respect to the designation of the species or stock concerned as depleted or endangered.

(c) Section 216.12(b) shall not apply to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

[39 FR 1852, Jan. 15, 1974, as amended at 56 FR 43888, Sept. 5, 1991; 59 FR 50376, Oct. 3, 1994]

§ 216.26 Collection of certain marine mammal parts without prior authorization.

Notwithstanding any other provision of this subpart:

(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within ¼ of a mile of the ocean. The term *ocean* includes bays and estuaries.

(b) Notwithstanding the provisions of subpart D, soft parts that are sloughed, excreted, or discharged naturally by a living marine mammal in the wild may be collected or imported for bona fide scientific research and enhancement, provided that collection does not involve the taking of a living marine mammal in the wild.

(c) Any marine mammal part collected under paragraph (a) of this section or any marine mammal part collected and imported under paragraph (b) of this section must be registered and identified, and may be transferred or otherwise possessed, in accordance with § 216.22(c). In registering a marine mammal part collected or imported under paragraph (b) of this section, the person who collected or imported the part must also state the scientific research or enhancement purpose for which the part was collected or imported.

(d) No person may purchase, sell or trade for commercial purposes any marine mammal part collected or imported under this section.

(e) The export of parts collected without prior authorization under paragraph (b) of this section may occur

¹In the context of captive maintenance of marine mammals, the only marine mammals exempted under this section are those that were actually captured or otherwise in captivity before December 21, 1972.

if consistent with the provisions at § 216.37(d) under subpart D.

[39 FR 1852, Jan. 15, 1974, as amended at 59 FR 50376, Oct. 3, 1994; 61 FR 21933, May 10, 1996]

§ 216.27 Release, non-releasability, and disposition under special exception permits for rehabilitated marine mammals.

(a) *Release requirements.* (1) Any marine mammal held for rehabilitation must be released within six months of capture or import unless the attending veterinarian determines that:

(i) The marine mammal might adversely affect marine mammals in the wild;

(ii) Release of the marine mammal to the wild will not likely be successful given the physical condition and behavior of the marine mammal; or

(iii) More time is needed to determine whether the release of the marine mammal to the wild will likely be successful. Releasability must be reevaluated at intervals of no less than six months until 24 months from capture or import, at which time there will be a rebuttable presumption that release into the wild is not feasible.

(2) The custodian of the rehabilitated marine mammal shall provide written notification prior to any release into the wild.

(i) Notification shall be provided to:

(A) The NMFS Regional Director at least 15 days in advance of releasing any beached or stranded marine mammal, unless advance notice is waived in writing by the Regional Director; or

(B) The Office Director at least 30 days in advance of releasing any imported marine mammal.

(ii) Notification shall include the following:

(A) A description of the marine mammal, including its physical condition and estimated age;

(B) The date and location of release; and

(C) The method and duration of transport prior to release.

(3) The Regional Director, or the Office Director as appropriate, may:

(i) Require additional information prior to any release;

(ii) Change the date or location of release, or the method or duration of transport prior to release;

(iii) Impose additional conditions to improve the likelihood of success or to monitor the success of the release; or

(iv) Require other disposition of the marine mammal.

(4) All marine mammals must be released near wild populations of the same species, and stock if known, unless a waiver is granted by the Regional Director or the Office Director.

(5) All marine mammals released must be tagged or marked in a manner acceptable to the Regional Director or the Office Director. The tag number or description of the marking must be reported to the Regional Director or Office Director following release.

(b) *Non-releasability and postponed determinations.* (1) The attending veterinarian shall provide the Regional Director or Office Director with a written report setting forth the basis of any determination under paragraphs (a)(1)(i) through (iii) of this section.

(2) Upon receipt of a report under paragraph (b)(1) of this section, the Regional Director or Office Director, in their sole discretion, may:

(i) Order the release of the marine mammal;

(ii) Order continued rehabilitation for an additional 6 months; or

(iii) Order other disposition as authorized.

(3) No later than 30 days after a marine mammal is determined unreleasable in accordance with paragraphs (a)(1)(i) through (iii) of this section, the person with authorized custody must:

(i) Request authorization to retain or transfer custody of the marine mammal in accordance with paragraph (c) of this section, or;

(ii) Humanely euthanize the marine mammal or arrange any other disposition of the marine mammal authorized by the Regional Director or Office Director.

(4) Notwithstanding any of the provisions of this section, the Office Director may require use of a rehabilitated marine mammal for any activity authorized under subpart D in lieu of animals taken from the wild.